

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT LEO OSWALD,

Plaintiff,

v.

JOHN S. RUBITSCHUN and
DAVID KLEINHARDT,

Defendants.

Case No. 1:04-CV-830

Hon. Richard Alan Enslen

ORDER

Plaintiff Robert Leo Oswald has filed an appeal (entitled “Motion for Discovery”) of United States Magistrate Judge Ellen S. Carmody’s Order of May 31, 2005, which granted Defendants John S. Rubitschun and David Kleinhardt enlargement to file a later answer or other responsive pleading. Such orders are reviewed pursuant to 28 U.S.C. § 636(b)(1) to determine whether they are “clearly erroneous or contrary to law.”

No showing warranting relief has been made as to the instant Order. Plaintiff assumes, without evidence, that he is being treated differently than Defendants. He says that he did not receive notice of the enlargement request and that the system of justice is not impartial. Regarding the notice issue, Federal Rule of Civil Procedure 6(b) permits the district courts to grant enlargement for good cause shown “with or without motion or notice . . . if the request is made before the expiration of the period. . . .” This request was made before the expiration of the period such that even if notice of the request was not sent, it was proper for Magistrate Judge Carmody to approve the request. Additionally, since the request sought a reasonable extension to investigate factual matters, it was clearly reasonable and within the sound discretion of the Magistrate Judge to approve.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff Robert Leo Oswald's appeal (Motion for Discovery, Dkt. No. 21) is **DENIED** and the Order (Dkt. No. 18) is **AFFIRMED**.

DATED in Kalamazoo, MI:
July 18, 2005

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
UNITED STATES DISTRICT JUDGE